

**REMARKS**

By this amendment, independent claim 4 has been amended to incorporate the essential features of claim 6, which has been cancelled along with claims 1-3 and 5. New claims 9-13 have been added. Support for new claims 9-13 can be found, *inter alia*, in the specification at page 1, lines 10-18, page 3, lines 10-25, and page 4, lines 10-13, as well as in claims 1-8 as originally filed. Claims 4 and 7-13 are presented for further examination.

The rejection of claims 1 and 3 under 35 U.S.C. § 102(b) over Grimberg, US 5,609,821, has been rendered moot by the cancellation of these claims.

The rejection of claims 4, 5 and 7 under 35 U.S.C. § 103(a) as obvious over Grimberg is respectfully traversed with respect to the amended claims.

Independent claim 4 relates to a method of sterilizing a foodstuff packaging material. As amended, claim 4 recites, in pertinent part, a hydrogen peroxide solution stabilized by 200 to 500 ppm of a foodstuff-compatible phosphonic acid. This required concentration of a foodstuff-compatible phosphonic acid is not disclosed or suggested by Grimberg.

Grimberg teaches an aqueous hydrogen peroxide solution having an organic phosphonic acid concentration of less than 50 ppm (i.e., less than 50 mg/kg, see column 3, lines 29-50 and column 4, lines 28-30). In particular, the concentration of the organic phosphonic acid in the hydrogen peroxide solution is limited to at most 50 ppm in order to obtain a high purity hydrogen peroxide solution suitable for the hot spraying application taught by Grimberg. See, e.g., column 4, lines 11-23. In view the express teaching to provide an aqueous hydrogen peroxide solution of high purity (i.e., a solution with minimal dry residue), a skilled artisan would not have been motivated to further increase the concentration of the organic phosphonic acid above the 50 ppm maximum as taught by Grimberg. For at least the foregoing reasons, reconsideration and withdrawal of the rejection are respectfully requested.

The rejection of claims 2 and 6 under 35 U.S.C. § 103(a) over Grimberg and further in view of Feasey, US 5,130,053, is respectfully traversed with

respect to the amended claims. Applicants note that although claims 2 and 6 have been cancelled, the essential features of claim 6 have been incorporated into independent claim 4.

Grimberg teaches an aqueous hydrogen peroxide solution including an organic phosphonic acid as a stabilizing agent. As noted above, however, and as acknowledged in the Office Action, Grimberg teaches that the concentration of the organic phosphonic acid is limited to less than 50 ppm. Notably, in each of Grimberg's examples that include a phosphonic acid, the concentration of phosphonic acid was limited to only 26 ppm in each. Grimberg expressly limits the concentration of the organic phosphonic acid to amounts less than 50 ppm in order to obtain a high purity solution having a dry residue content of less than 120 mg/kg and a conductivity less than 120  $\mu$ S/cm. See, e.g., column 4, lines 11-23. Thus, Grimberg effectively *teaches away* from aqueous hydrogen peroxide solutions having higher concentrations of an organic phosphonic acid.

Feasey teaches the stabilization of hydrogen peroxide solutions using phosphonic acids having concentrations ranging from 50 to 1000 ppm. Feasey teaches that organic phosphonic acid-stabilized hydrogen peroxides can be used in various applications. However, Feasey does not teach a method of sterilizing a foodstuff packaging material, much less that sterilization of foodstuff packaging material can be carried out using a stabilized hydrogen peroxide solution containing from 200 to 500 ppm of a phosphonic acid. Pointedly, Feasey fails to provide adequate motivation to one skilled in the art to increase the concentration of an organic phosphonic acid used to stabilize hydrogen peroxide for use in the chemical sterilization of packaging materials, as required by the claims. Moreover, based on Grimberg's teaching to avoid higher concentrations of a phosphonic acid, a skilled artisan relying on the combination of Feasey with Grimberg would not have been motivated to increase the amount of phosphonic acid stabilizer in the hydrogen peroxide solutions of Grimberg above 50 ppm.

In view of Grimberg's teaching to avoid higher phosphonic acid concentrations, and Feasey's failure to teach any phosphonic acid concentrations

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that would be suitable for the chemical sterilization of foodstuff packaging materials, it would not have been obvious to use a hydrogen peroxide solution having 200 to 500 ppm of a stabilizing phosphonic acid for the chemical sterilization of packaging materials, in particular in high-speed aseptic packaging plants.

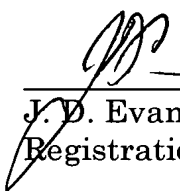
In view of the foregoing, the application is respectfully submitted to be in condition for allowance, and prompt favorable action thereon is earnestly solicited.

If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned at (202) 624-2845 would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket #101771.53337US).

Respectfully submitted,

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